

Calendar No. 118

106TH CONGRESS
1ST SESSION**H. R. 1034**

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1999

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

MAY 18 (legislative day, MAY 14), 1999

Reported by Mr. MCCAIN, without amendment

AN ACT

To declare a portion of the James River and Kanawha Canal in Richmond, Virginia, to be nonnavigable waters of the United States for purposes of title 46, United States Code, and the other maritime laws of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds the following:

5 (1) The canal known as the James River and
6 Kanawha Canal played an important part in the eco-
7 nomic development of the Commonwealth of Virginia
8 and the city of Richmond.

1 (2) The canal ceased to operate as a func-
2 tioning waterway in the conduct of commerce in the
3 late 1800s.

4 (3) Portions of the canal have been found by a
5 Federal district court to be nonnavigable.

6 (4) The restored portion of the canal will be
7 utilized to provide entertainment and education to
8 visitors and will play an important part in the eco-
9 nomic development of downtown Richmond.

10 (5) The restored portion of the canal will not be
11 utilized for general public boating, and will be re-
12 stricted to activities similar to those conducted on
13 similar waters in San Antonio, Texas.

14 (6) The continued classification of the canal as
15 a navigable waterway based upon historic usage that
16 ceased more than 100 years ago does not serve the
17 public interest and is unnecessary to protect public
18 safety.

19 (7) Congressional action is required to clarify
20 that the canal is no longer to be considered a navi-
21 gable waterway for purposes of subtitle II of title
22 46, United States Code.

1 **SEC. 2. DECLARATION OF NONNAVIGABILITY OF A POR-**
2 **TION OF THE CANAL KNOWN AS THE JAMES**
3 **RIVER AND KANAWHA CANAL IN RICHMOND,**
4 **VIRGINIA.**

5 (a) CANAL DECLARED NONNAVIGABLE.—The por-
6 tion of the canal known as the James River and Kanawha
7 Canal in Richmond, Virginia, located between the Great
8 Ship Lock on the east and the limits of the city of Rich-
9 mond on the west is hereby declared to be a nonnavigable
10 waterway of the United States for purposes of subtitle II
11 of title 46, United States Code.

12 (b) ENSURING PUBLIC SAFETY.—The Secretary of
13 Transportation shall provide such technical advice, infor-
14 mation, and assistance as the city of Richmond, Virginia,
15 or its designee may request to insure that the vessels oper-
16 ating on the waters declared nonnavigable by subsection
17 (a) are built, maintained, and operated in a manner con-
18 sistent with protecting public safety.

19 (c) TERMINATION OF DECLARATION.—

20 (1) IN GENERAL.—The Secretary of Transpor-
21 tation may terminate the effectiveness of the dec-
22 laration made by subsection (a) by publishing a de-
23 termination that vessels operating on the waters de-
24 clared nonnavigable by subsection (a) have not been
25 built, maintained, and operated in a manner con-
26 sistent with protecting public safety.

1 (2) PUBLIC INPUT.—Before making a deter-
2 mination under this subsection, the Secretary of
3 Transportation shall—

4 (A) consult with appropriate State and
5 local government officials regarding whether
6 such a determination is necessary to protect
7 public safety and will serve the public interest;
8 and

9 (B) provide to persons who might be ad-
10 versely affected by the determination the oppor-
11 tunity for comment and a hearing on whether
12 such action is necessary to protect public safety
13 and will serve the public interest.

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